REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-5, 8-16, and 21 are currently pending in the present application, new Claim 21 having been added by way of the present amendment. No new matter has been added.[1]

In the outstanding Office Action, Claim 6 was objected to; Claims 1-6, 8-12, 14-16, and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Snook (U.S. Pat. No. 6,400,378, hereinafter "Snook") in view of Dufaux (U.S. Pat. No. 6,711,587, hereinafter "Dufaux"); and Claim 13 was rejected under 35 U.S.C. § 103(a) as unpatentable over Snook in view of Dufaux and in further view of Trivedi, et al. (U.S. Pat. Pub. No. 2006/0187305, hereinafter "Trivedi").

Regarding the objection to Claim 6, this claim has been canceled, making the objection to Claim 6 moot.

Regarding the art rejections, Claim 15 defines a media handling system in which candidate video sequences are displayed on a display screen in schematic form for selection by a user, the system including,

> means for detecting human faces in the candidate video sequences, for ***detecting a probability of a human face being present in each field or frame of the video sequences***, and for ***weighting at least some of the detected probability levels depending on the size of the detected face***, each displayed representation of a candidate video sequence including one or more images representing human faces which have ***the highest weighted probability levels amongst the respective video sequences***;
>
> a display screen configured to display ***the representations of the candidate video sequences for selection*** by a user, each representation including one or more images representing human faces derived from the respective video sequences.

[1] Support for the new claim is found at least at page 9 and in Fig. 10 of Applicants' Specification.

The outstanding Office Action acknowledges on pages 3-4 that Snook describes a conventional media handling system in which thumbnails of video sequences are displayed to and selected by a user.

Moreover, the Advisory Action dated May 13, 2009, states,

> "The examiner agrees that Snook fails to teach detecting human faces in the candidate video sequences for detecting the probability of a human face being present and notes that the rejection does not rely upon snook for this teaching. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971)"

However, as noted in the previously filed amendment, Snook is silent regarding the use of face recognition to select representations of video, and further, on the ***need*** to use face recognition to select representations of video. Thus, Applicants remain unclear as to ***why*** and ***how*** a person skilled in the art would seek to combine Snook with Dufaux without the benefit of hindsight. The court in *In re Mercier*, 185 USPQ 774 (C.C.P.A. 1975) stated that

> The board's approach amounts, in substance, to nothing more than a hindsight "reconstruction" of the claimed invention by relying on isolated teachings of the prior art without considering the over-all context within which those teachings are presented. Without the benefit of appellant's disclosure, a person having ordinary skill in the art would not ***know what portions of the disclosure of the reference to consider and what portions to disregard as irrelevant, or misleading.*** See In re Wesslau, 53 CCPA 746, 353 F.2d 238, 147 USPQ 391 (1965).[2]

Here, without knowledge of Applicants' disclosure, one would not know which elements of Snook (and moreover which elements of Dufaux) to consider or to disregard. Further, if the proposed modification would render the prior art invention being modified

[2] Emphasis added.

unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Moreover, the advisory Action fails to address the previously filed argument that, even assuming *arguendo* that Snook and Dufaux could be combined, Dufaux does not teach "detecting a probability of a human face being present in each field or frame of the video sequences," and "weighting at least some of the detected probability levels depending on the size of the detected face, each displayed representation of a candidate video sequence including one or more images representing human faces which have the highest weighted probability levels amongst the respective video sequences," as recited in Claim 15. Indeed, the outstanding Office Action concedes on page 4 that Snook fails to disclose the above-identified features.

Firstly, Dufaux describes that key frames are selected on the basis of five factors, of which face detection is only ***one*** (see the evaluation equation for "computing the total shot measure" in col. 11, lines 45-50). Hence, Dufaux does not disclose selection of a representation candidate based upon the weighted (highest) probability of a human face being present in each field or frame of the video sequences. Rather, Dufaux selects a key frame on the basis of five factors, at least one of which is weighted to be twice as significant as facial recognition (see below). As a result, there is no technical basis for the assertion that Dufaux selects key frames based upon the ***highest weighted probability of containing a face***. In fact, Dufaux allows for the selection of a key frame where the probability score for containing a face is not the highest, and even where it is zero.

Therefore, Dufaux cannot be construed as disclosing the claimed "method of media handling in which candidate video sequences are displayed on a display screen in schematic form for selection by a user," as Dufaux does not disclose or suggest "detecting a probability

of a human face being present in each field or frame of the video sequences," as recited in Claim 15.

Moreover, Dufaux does not disclose weighting probability levels depending upon the size of a detected face. Referring to the equation in col. 11, lines 45-50, and to the subsequently described weighting values in col. 12, lines 3-4, facial weighting has a fixed value of $W_F = 1$. In other words, it has no effect whatsoever, and does nothing to change the associated detection value. Rather, W_F is simply part of a convention in Dufaux to highlight that entropy is positively weighted ($W_H = 2$). No alternative values or mechanism for changing these default values is disclosed. Consequently, Applicants respectfully submit that there is no suggestion in Dufaux that a weighting value is applied that is dependent upon the apparent size of a face.

Therefore, Dufaux does not disclose or suggest "weighting at least some of the detected probability levels depending on the size of the detected face, each displayed representation of a candidate video sequence including one or more images representing human faces which have the highest weighted probability levels amongst the respective video sequences," as recited in Claim 15.

Further, for at least the reasons noted above, Dufaux cannot provide the advantages provided by the claimed invention that

i. thumbnails (i.e., reduced resolution video footage) that contain faces are selected, since faces are only one of five parameters, and not even the predominant one in the Dufaux selection process; and
ii. thumbnails (i.e., reduced resolution video footage) are selected from images in which faces are of a desired size (for example, a size that results in improved picture quality in the representation) and, hence, results in easier recognition within the reduced size image, for example.

Therefore, for all of the above reasons, Snook and Dufaux do not disclose or suggest "a method of media handling in which candidate video sequences are displayed on a display screen in schematic form for selection by a user," as defined in Claim 15.

Thus, Applicants respectfully submit that independent Claim 15 and claims dependent therefrom patentably define over Snook and Dufaux.

Indeed, the May 13, 2009, Advisory Action does not address the technical arguments submitted by the Applicants. Accordingly, should the present rejection be maintained, Applicants respectfully request that the next Office Communication specifically identify how the Office's proposed modification to Snook would be possible in light of the technical difficulties therewith discussed above.

Independent Claims 1 and 20, while differing in scope and statutory class from Claim 15, patentably define over Snook and Dufaux for substantially the same reasons as Claim 1. Accordingly, it is respectfully submitted that Snook and Dufaux do not anticipate or render obvious the features of independent Claims 1 and 20. Therefore, independent Claims 1 and 20 and claims dependent therefrom are believed to patentably define over Snook and Dufaux.

With regard to the rejection of Claim 13 as unpatentable over Snook in view of Dufaux and in further view of Trivedi, it is noted that Claim 13 is dependent from Claim 1, and thus is believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Trivedi does not cure any of the above-noted deficiencies of Snook and Dufaux. Accordingly, it is respectfully submitted that Claim 13 is patentable over Snook, Dufaux and Trivedi.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103 be withdrawn.

Finally, new Claim 21 is supported at least by the specification at page 9 and Fig. 10. As new Claim 21 depends from independent Claim 1, new Claim 21 is believed to be

patentable for at least the reasons described above with respect to these claims. Further, new Claim 21 is believed to recite subject matter that further defines over the cited references. Therefore, new Claim 21 is also allowable.

Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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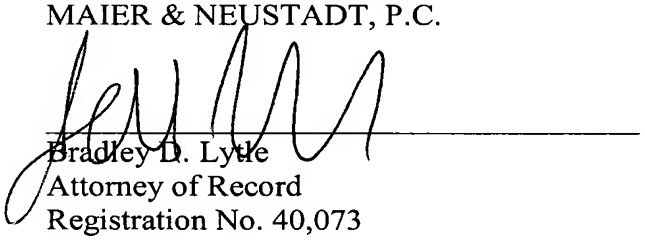

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